

following written notice of the depositor's intent to withdraw the funds.

(6) "Depository services" means the receipt and disbursement of funds by a depository in accordance with the terms of a depository services contract.

(7) "Depository services contract" means a contract executed by a municipality and a depository containing terms and conditions relating to the depository services to be provided by the depository.

(8) "Designated officer" means the treasurer of a municipality or other officer of the municipality so designated by the governing body of a municipality.

(9) "Federal credit union" means a credit union organized under the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.).

(10) "Federal savings association" means a savings and loan association or a savings bank organized under federal law.

(11) "National bank" means a banking corporation organized under the provisions of 12 U.S.C. Section 21.

(12) "Savings association" means a savings association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

*Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 83, § 7.78*

(13) "State bank" has the meaning assigned by Section 31.002(a), Finance Code.

*Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 844, § 5.908*

(13) "State bank" means a bank organized under the laws of this state or another state.

(14) "State credit union" means a credit union organized under Subtitle D, Title 3, Finance Code.

(15) "State savings association" means any savings and loan association or savings bank organized under the laws of this state.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 914, § 9, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, § 7.78, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, § 5.908, eff. Sept. 1, 1999.

#### § 105.002. Funds Affected

This chapter applies to the funds, including school funds, of any municipality or any department or agency of the municipality.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

[Sections 105.008 to 105.010 reserved for expansion]

#### SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

##### § 105.011. Depository Authorized

(a) Before awarding a depository services contract to a depository, the governing body of a municipality shall receive applications for the performance of depository services from one or more banks, credit unions, or savings associations.

(b) The governing body may consider the application of a bank, credit union, or savings association that is not doing business within the municipality if:

(1) the bank, credit union, or savings association maintains a place of business within the state and offers within the state the services required by the depository services contract; and

(2) the governing body, prior to giving the notice required by Section 105.012, has adopted a written policy expressly permitting the consideration of applications received by the municipality from a bank, credit union, or savings association that is not doing business within the municipality, after taking into consideration what is in the best interest of the municipality in establishing a depository.

(c) The designated officer shall request, receive, and review applications for the performance of depository services. The designated officer shall present the specifications of each application to the governing body who will then select a depository.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 1, § 14(a), eff. Aug. 28, 1993; Acts 1999, 76th Leg., ch. 234, § 1, eff. Sept. 1, 1999.

##### § 105.012. Notice

(a) The designated officer shall give notice to banks, credit unions, and savings associations requesting the submission of applications for the performance of depository services.

(b) The notice must contain:

(1) the name and address of the designated officer receiving the applications;

(2) the date and time the applications are to be received by the designated officer; and

(3) the date, time, and place the governing body of the municipality will consider the selection of one or more depositories.

(c) Notice of the request shall be published at least once no later than 21 days prior to the deadline for receipt of applications for depository services contracts (i) in a newspaper of general circulation in the municipality and (ii) in a financial publication of gener-

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al circulation published within this state; provided, that the notice required by clause (ii) shall not be required if the governing body has not adopted the written policy described in Section 105.011.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

### **§ 105.013. Application**

The designated officer may not consider an application if it is received after the date specified in the notice for receiving applications by the designated officer.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

### **§ 105.014. Review of Applications**

In reviewing the applications, the designated officer shall consider the terms and conditions for the performance of depository services, including the type and cost of services to be provided to the municipality, consistent with any policy guidelines adopted by the governing body regarding the selection of one or more depositaries.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

### **§ 105.015. Selection of Depository**

(a) The governing body of a municipality may authorize the designated officer to execute on the municipality's behalf one or more depository services contracts.

(b) The governing body may reject any of the applications and readvertise if all applications are rejected.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depositories.

Added by Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Renumbered from § 105.014 and amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993. Amended by Acts 1993, 73rd Leg., ch. 268, § 25, eff. Sept. 1, 1993.

### **§ 105.016. Designation of Depository**

(a) The governing body shall designate, by an order recorded in its minutes, the bank, credit union, or savings association to serve as a depository for the municipality's funds.

(b) If a bank, credit union, or savings association selected as a municipal depository does not provide security by the deadline prescribed by Section 105.031, the selection of the bank, credit union, or savings association as a depository is void, and the governing body may consider the application it deems

to be the next most advantageous depository upon application.

Added by Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Renumbered from § 105.015 and amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

### **§ 105.017. Term of Depository Contract**

A municipality may approve, execute, and any depository services contract whose term does not exceed five years. The depository services contract may only contain terms and conditions approved by the governing body of the municipality.

Added by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

### **§ 105.018. Additional Services**

In addition to depository services, a municipality may contract with financial institutions, including banks, credit unions, and savings associations, for additional financial services under a separate contract if the governing body of the municipality determines that additional financial services are necessary for administration, collection, investment, and management of municipal funds.

Added by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993.

[Sections 105.019 to 105.030 reserved for expansion]

## SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

### **§ 105.031. Qualification as Depository**

(a) The bank or savings association, to qualify as a municipal depository, must, not later than fifteen days before the commencement of the term of the depository services contract, provide security for the municipality's funds to be deposited in accordance with the terms of the depository services contract.

(b) Chapter 2257, Government Code governs the type, level, substitution, possession, release, and method of valuation of the security necessary to secure the deposit of municipal funds.

(c) The bank, credit union, or savings association may use personal bonds, surety bonds, or a combination to secure municipal funds only if each bond and surety bond is specifically approved by the governing body of the municipality or its designee or officer.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 5.95(12), eff. Sept. 1, 1995.